No. 105.
Brf. of Brown for Appellees.

Office Supreme Court U. S.
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Clerk.

Filed Jan. 15, 1900.

IN THE

Supreme Court of the United States.

C. P. HUNTINGTON, RECEIVER, &c.,

vs.

J. B. LAIDLEY AND OTHERS.

October Term, 1899. No. 105.

BRIEF OF BROWN, JACKSON & KNIGHT, AND W. S. LAIDLEY, FOR APPELLEES.

IN THE

Supreme Court of the United States.

C. P. HUNTINGTON, RECEIVER, &c.,

vs.

J. B. LAIDLEY AND OTHERS.

October Term, 1899. No. 105.

BRIEF OF BROWN, JACKSON & KNIGHT, FOR THE APPELLEES.

This case is presented upon the following question, certified to this Court as hereinafter shown:

"Is this Court (the U. S. Circuit Court for the District of West Virginia) without jurisdiction of this cause because of the pendency in the State court prior to the commencement of this suit, of the action of ejectment in which John B. Laidley was plaintiff and the Central Land Company of West Virginia was defendant, which was begun in the Circuit Court of Cabell County, West Virginia, on the first Monday in April, 1882, and the other actions of ejectment brought prior to this cause in said State court by the said John B. Laidley as plaintiff, in relation to the property in question in this suit; and of the Chancery

Cause in which the Central Land Company of West Virginia was complainant and John B. Laidley and others were defendants, which was brought in said State court prior to the commencement of this cause?"

This submission calls for a statement of the several causes mentioned, and of the subject matter of the litigation.

STATEMENT:

Feb. 25th, 1870, *Sarah H. J. Pennybacker*, being seized of 240 acres of land in Cabell County, West Virginia, attempted to convey same (one acre excepted) to one *C. P. Huntington;* her husband joining in the deed. This deed was, in fact, *void* as to her, because of defects in its execution, but good as to him, the husband.

By deed of Oct. 16th, 1871, *Huntington* attempted to convey to the *Central Land Co.*, a West Va. Corporation.

Under the laws of West Virginia, then in force, the husband took by the courtesy, an estate for his life in the lands of the wife. In 1881 the husband, in this case, died, and his estate terminated; and with it, the right of *Huntington* and his vendee.

By deed of Jan. 26th, 1882, *Mrs. Pennybacker*, ignoring her defective deed to Huntington, conveyed the land to *J. B. Laidley*. Apl. 1882, Laidley, a citizen of West Virginia, instituted in the State court ejectments against the Land Co. and seventeen parties, its vendees of parts, also, all citizens of West Virginia. The suit against the Company was first tried Dec. 1884. The sole question involved; was, *as to the validity of the deed to Huntington.*

The trial court instructed, that the deed to *Huntington* was valid, and passed all interest of the grantors, wherefore *Laidley* could take nothing by his subsequent deed; and, gave judgment for the defendant; whereupon, *Laidley* took the case by writ of error to the Supreme Court of Appeals of the State. The defendant Co. recognizing the worthlessness of the deed and the inevitable reversal of the judgment, in June 1887, filed its bill on the Equity side in the State court against Laidley and *Mrs.* Pennybacker; alleging, that *Mrs. Pennybacker* was imposed upon by Laidley and induced to sell to him at an inadequate price, and fraud generally on the part of Laid-

ley; that Laidley by the deed to him, *took* the legal title *in trust* for the use of the Company; and, praying that he be adjudged to convey the title so acquired, to the Company; or, in default of that, that the purchase money be decreed to it.

Pending this bill, Nov. 1887, the Supreme Court of Appeals reversed the judgment in ejectment, holding the deed from Mrs. Pennybacker *void* as *to her*, but *good* to pass the *life estate of her* husband; that, the husband being tenant by the courtesy under, and *not* adverse to, her, *Huntington* and the *Land Co.*, his successors, held in like manner; and that their possession was in support of, and not hostile to her estate; that by the death of the husband the estate by courtesy terminated; and, that Laidley, by virtue of the deed to him, was vested with the title, and entitled to recover the possession; in brief, that the deed was void as to the wife, but good as to the husband; that by it *Huntington* took the husband's life estate, subject to a remainder in the wife, which remainder by the wife's deed to *Laidley*, became vested in him, and which after the death of the husband he was entitled to recover in that action. (See *Laidley* v. *Land Co.*, 30 W. Va. 505).

On the rendition of this decision, the *Land Co.* filed an amended bill (Jan. 1888) in its chancery suit, reiterating and enlarging upon its supposed equities; but, upon answer by Laidley denying all allegations of imposition and fraud, and upon many depositions disproving same, the court, after full hearing, adjudged against the Company, and dismissed its bills; whereupon, it appealed to the Supreme Court of the State.

Pending this appeal in the chancery suit, the ejectment came on again for trial (May '89); whereupon, the *Land Co.* applied for a *stay* pending the decision of its said appeal; alleging as cause, that the deed to *Huntington* being void and the legal title vested in *Laidley* by the subsequent deed, they could not defend at law, but were limited to such relief, if any, as they might yet be accorded in the chancery cause theretofore decided against it, but then pending on appeal. This application was made under Sec. 6 of Ch. 136 of the Code of W. Va., *i. e.*

"Whenever it shall be made to appear to a Circuit Court, or to the judge thereof in vacation, that a stay of proceedings

in a case therein pending, should be had, until the decision of some other action, suit or proceeding in the same, or another Court, such court of judge shall make an order staying proceedings therein, *upon such terms as may be prescribed in the order.*"

The Court granted the motion; but, under the provision of the statute so invoked, put the defendant upon terms. See R. 340.

"J. B. Laidley, Pl't'f., v. The Central Land Co. of W. Va. Deft. } In Ejectment.

and

J. B. Laidley, Pltf. vs. The Central Land Co. of W. Va., Deft. } In Ejectment. Consolidated.

This day came the plaintiff, by his attorneys, and the defendant, by its attorneys; and thereupon the defendant moved the Court for a stay of proceedings in these causes until the decision of the Supreme Court on the appeal hereinafter mentioned, upon the ground that there is pending in the Supreme Court of appeals in this State an appeal by the defendant from a decree of this Court in the Chancery cause of the Central Land Company of West Virginia against said J. B. Laidley and others, and read in evidence in support of said motion the record of said chancery suit and of the appeal thereon; and the plaintiff resisted said motion, and insisted upon a trial of said action of ejectment, and the Court, having fully considered the matters arising upon said motion, doth decide to stay said actions until the decision of the appellate court in said chancery cause, *upon condition and not otherwise, that said defendant, The Central Land Company of West Virginia, agrees here in open Court that judgment be at once entered for the plaintiff in said actions of ejectment for the estate in fee-simple in the lands in the declarations in said actions described, without further defense, in event the decree aforesaid in said chancery suit be affirmed upon said appeal so far as it relates to the title in the land,* but judgment so to be entered to be without prejudice to the right of the defendant, if any it has, to compensation for any improvements it may have placed upon the lands in controversy; and *thereupon the said defendant in open court accepted said stay of proceedings in said actions of ejectment upon the terms aforesaid.*"

Feb. 11th, 1889, the Supreme Court decided the appeal; affirming the decree referred to in the above order; holding,

the deed from *Mrs. Pennybacker* to *Huntington void* in *equity* as well as *at law*, and that it passed nothing as to her; that no equities whatever intervened between *Laidley* and the estate, in favor of *Huntington* or *his vendee;* and, that the alleged equities between *Laidley* and *Mrs. Pennybacker*, even if any existed, which did not appear, could not avail the *complainant*. 32 W. Va. 134.

Thus adjudged against by the Supreme Court, both as to the *legal* and *equitable* title, the Company sought, through *Mrs. Pennybacker*, to avail themselves of the alleged equities between *her* and *Laidley;* and in her name was filed a bill against Laidley, reiterating in identical words the old charges of imposition and inadequacy of price contained in the first bill. This bill also was fully answered by *Laidley*, depositions taken, and, after full hearing the cause adjudged in favor of *Laidley*, and, on appeal, dismissed by the Supreme Court. 33 W. Va. 624.

It might have seemed that the litigation had by this time exhausted itself, but instead; on the 12th day of Sept., 1890, the Company, notwithstanding its agreement, again renewed the fight in the action at law, this time based on a newly conceived notion, viz: That the decision of the Supeme Court, in holding the deed void, violated the provision of the Constitution of the United States against state legislation impairing the obligation of contracts. This defense also was overruled by the lower court; and judgment rendered for *Laidley;* and, a writ of error refused to the Company by the Supreme Court of the State upon the ground that the judgment was "plainly right."

To this decision by the Supreme Court of Appeals of the State, the Company obtained a writ of error from this Court. (U. S. Supreme Court) which, later holding that no federal question was involved, dismissed the writ and left the judgment of the State Court in full force. Again, one would have supposed the litigation ended, but not so.

In order to escape the force and effect of these several adjudications; pending the case in U. S. Sup. Court as above, *the Company, a citizen of W. Va.*, filed in the U. S. Circuit Court for the District of West Virginia, its bill against *Laidley*, another *citizen of W. Va.;* again reiterating all the matter of its former bill in the State Court, about imposition,

fraud, etc.; and further, its old allegations as to the decision of the State court impairing the obligation of a contract; and, alleging that by reason of the latter charge, jurisdiction existed in the federal court to enjoin the execution of the judgment of the State court, whereupon the U. S. District Judge awarded the injunction.

The subsequent decision by the Supreme Court of the U. S., that the judgment of the State court, annulling the deed, did not raise a federal question, left the Federal Court without a shadow of jurisdiction of this last mentioned suit.

The case then stood:

(1) A judgment by the State Court in favor of *Laidley*, on the *law side;* confirmed by the Supreme Court of the State.

(2) A *decree* for *Laidley*, adjudging the non-existence of any equities in favor of the Company on the *Equity side;* likewise confirmed by the Supreme Court of the State.

(3) The decision of the Supreme Court of the United States, that no federal question was involved, nor any ground for interference by a Federal Court.

Having tried all sides of all Courts with uniform result, it would again have seemed that the end of the rope had been at last reached, but not so.

The resourcefulness of the defendant suggested the *creation* of a *new condition;* and thereby, to supercede all former judgments, decisions and decrees. Knowing that an alienation of title to a non-resident could not avoid antecedent judgments and decrees, nor confer jurisdiction upon Federal courts, the happy idea was conceived of bringing a friendly suit in the U. S. court by a non-resident stockholder, ostensibly to wind up the *West Virginia* corporation; and, as an incident, for a Receiver of the Company; to appoint a *non-resident* Receiver, and thereby manufacture as it were the coveted jurisdiction.

The bill for the Receiver was filed on Nov. 11th, 1890, the last one of the sixty days stay granted by the State court to its judgment at the instance of the defendant to enable it to apply for a writ of error. The injunction suit by the Receiver was brought a few days later, Laidley enjoined from the benefit of his judgment and of the decisions in his fa-

vor rendered by the State courts; and all the matters involved in the former litigation realleged, and again attempted to be relitigated in the Federal court, all with a studied exclusion from the bill of the slightest allusion to any pre-existing litigation.

The State court, notwithstanding this injunction, after waiting several years, directed its officer to proceed with the execution of its judgments; whereupon, at the instance of *Huntington, Receiver*, a rule was issued by the Federal court against *Laidley* and the officer, to show cause, if any they could, why they should not be fined and imprisoned for contempt. Upon answer to the rule, and full hearing upon the papers of the cause, the Circuit Judge of the U. S. Court, for that Circuit, June 25th, 1898, dissolved the injunction, quashed the rule and dismissed the bills, under § 5 of the Act of 1875, as in violation of the provisions of § 720 U. S. Rev. Statutes. A few hours later, the District Judge, who was not present at the hearing, superseded the order of the Circuit Judge, re-instated the injunction, certified a single question to this Court, and awarded this appeal.

The order of Judge Goff, dissolving the injunction and dismissing the bill, is the order here appealed from; and its correctness, the question submitted to this Court for decision.

We thus, have a judgment of the State court in favor of Laidley for the recovery of the title and possession of the land, and the award of a writ *habere facias possessionem*, all in a cause between two citizens of the same State; and further, an adjudication by this Court that no federal question was involved in the controversy; an injunction by the Federal court to the execution of the writ possession; a decree dismissing the bill; and this appeal from that decree.

We respectfully submit that to state the case, is to affirm the Circuit Court,

Or to state the case more specifically, we have:

First:

A judgment at law in ejectment in the State court by a citizen of West Virginia against a West Virginia corporation, upon the title and for the possession of land in that State; and the award of a writ of *habere facias possessiomem*.

Second:

A *decree* in favor of Laidley on the Chancery side in the same Court, against same defendant, adjudging that no equities existed against said judgment.

Third:

Both judgment and decree *affirmed* by the Supreme Court of the State.

Fourth:

The judgment of the Supreme Court of the United States, that no federal question was involved.

Fifth:

The decree here appealed from, dismissing the bill enjoining the execution by the State court of its own judgment and decree.

All the above matters fully appeared in the record at the date of this decree, not disputed or questioned, (see the decree R. p. 648) and the cause was heard thereon. The record further fully disclosed the sole purpose of the bill *for* a Receiver, to be to provide a way for getting jurisdiction for a Federal court; and the sole purpose of the bill *by* the Receiver, to be, the enjoining of the execution of a judgment of a State Court of competent jurisdiction, in the teeth of the federal statutes. The duty of the Court became at once apparent, and its decision was prompt. By Sec. 720 U. S. Rev. Statutes it is provided:

"The writ of injunction shall not be granted by any court of the United States to stay proceedings in any court of a State, except in cases where such injunction may be authorized by any law relating to proceedings in bankruptcy."

And by Sec. 5 of Act of Mar. 3, 1875:

Sec. 5. "That if, in any suit commenced in a Circuit Court of the United States, it shall appear to the satisfaction of said Circuit Court, at any time after such suit has been brought or removed thereto, that such suit does not really substantially involve a dispute or controversy properly within the jurisdiction of said Circuit Court, or that the parties to said suit have been improperly or collusively made or joined, either as plaintiffs or defendants, for the purpose of creating a case cognizable or removeable under this act, the said Circuit Court shall proceed no farther therein, but

shall dismiss the suit or remand it to the court from which it was removed, as justice may require, and shall make such order as to costs as shall be just."

It would seem unnecessary to cite authority for the Court's action; but, if needs be, mention of the case of *Central Nat. Bank* v. *Stevens*, 169 U. S. 432, with the authorities there cited, would seem fully sufficient. This Court in that case said:

"It is a doctrine of law, too long established to require a citation of authorities, that, where a court has jurisdiction, it has a right to decide every question which occurs in the cause, and whether its decision be correct or otherwise, its judgment, till reversed, is regarded as binding in every other court; and that, where the jurisdiction of a court, and the right of a plaintiff to prosecute his suit in it, have once attached, that right can not be arrested or taken away by proceedings in another court. These rules have their foundation not merely in comity, but on necessity."

Again;

"State Courts are exempt from all interference by the federal tribunals, but they are destitute of all power to restrain either the process or proceedings in the national courts. Circuit Courts and State courts act separately and independently of each other, and in their respective spheres of action and process issued by the one is as far beyond the reach of the other as if the line of division between them 'was traced by land marks and monuments visible to the eye.' Appellate relations exist in a class of cases between the State courts and this Court, but there are no relations between the State courts and the Circuit Courts."

Again;

"In Story's Equity Jurisprudence, vol. 2 § 900, it is said, referring to the power sometimes exercised by Courts of Equity, to restrain parties within their jurisdiction from proceeding in foreign Courts: 'There is one exception to this doctrine which has been long recognized in America, and that is that the State Courts cannot enjoin proceedings in the Courts of the United States, *nor the latter in the former.*'"

Again;

"It is contended by the Counsel for the defendants in error, in a supplemental brief, that these principles, so long and so well settled, have been modified by some recent de-

cisions of this Court, and the case of *Morgan* v. *Sturges*, 154 U. S. 256 (38 : 981), and of *Shields* v. *Coleman*, 157 U. S. 168 (39 : 660), are cited in support of that contention. Such a conception of the import of these cases must have been formed from a hasty reading, for they are in perfect harmony with the previous cases, and, indeed, may properfy be cited to sustain the reasoning upon which these cases proceeded."

It may be urged that new allegations of "fraud" were added by amended bill in 1894, wherefore it may be claimed that jurisdiction was obtained independent of the original grounds for injunction.

As already shown, all alleged equities between the Company and Laidley had already been adjudicated in the Courts, against the Company. It was bound to put in its *whole* case in that bill. The allegation by the *Receiver*, in his amended bill, that equities existed which *he* did not sooner know of, is wholly insufficient to authorize a relitigation. He succeeded to the *Company*, bound in like manner as it was bound, to rights and equities circumscribed in like manner as before the Receivership. *His* want of knowledge of the existence of other supposed equities could not supply the neglect of the Company to assert them at the proper time in *its* suit in the State court; nor entitled *him* as *Receiver* to evade a decree which his corporation could not evade; to avail of lack of knowlege on *his* part, when it does not appear that any such lack of knowledge existed on the part of the corporation, when it filed *its* bill upon which the adverse decree of the State court was rendered, or within three years thereafter within which it might have filed its bill of review.

Again the affidavit for the amendment does not meet the requirements of the 29 Equity Rule; but if it did, the amendment itself does not add sufficient matter to maintain the bill; as amended, it contains no allegation entitling the complainant to relief.

Federal courts are not established as tribunals for review of final judgments of State courts, nor has it been the inclination of this Court to permit them to be converted into such by the ingenuity of counsel.

Here, in a controversy between two citizens of the same State, the plaintiff has been adjudged title in a tract of land;

the defendant to have no right at law or in equity in the same: and a writ of possession awarded. The Federal Court has been asked to review and annul these judgments, and to enjoin the writ because of the citizenship of a Receiver procured for the purpose after the rendition of the judgments by the State court, and upon the allegation that *he* did not know of certain alleged matters, essential to, but omitted from the Company's former bill, and which, if alleged, he thinks might have brought about a different judgment.

Had the supposed new facts come to the knowledge of the Company after the date of the decree of the State court, its remedy would have been by bill of review in that court; but it is not, as already shown, even alleged that the *Company* was not then fully advised, and the affirmative of the contrary is upon it, both by allegation and proof, to show the fact; this it does not pretend to do, nor does the Receiver, to allege even want of full knowledge upon its part. *His* ignorance cannot be substituted in place of the knowledge of the real party.

But even had the facts alleged, in fact, existed; and, had the Company been in ignorance of them at the date of its former suit, still it would not, after the statutory period for a bill of review, be permitted to escape the result of its neglect, by appeal to a Federal court.

While not involved in the question submitted to this Court, it is but fair to the memory of Mr. Laidley, now deceased, to state that the allegations of fraud, so attempted to be thrust in the case, were without shadow of foundation; denied under oath in the answers, disproved by the depositions (omitted by the appellant from the record) and further disproved by the perpetual silence of the Company which had its office during all those years, and, in fact, did its business, and had its vigilant agents and attorneys residing in, the same County; and especially is the recklessness and falsity of the charges apparent when it is considered that the supposed new facts were, if true, such as could not be hid under a bushel, but were of necessity from their alleged character fully known in the community. The allegation as to "want of knowledge" in the premises was advisedly confined to Mr. Huntington, the Receiver; resident of New York.

We respectfully submit the following propositions as conclusive of this case:

(1) That Federal courts have no jurisdiction to restrain State courts in the execution of their judgments and decrees.

U. S. Revised Statutes Sec. 720, *Central Nat. Bank v. Stevens, 169 U. S. 432 and cases cited.*

(2) The jurisdiction of the State court once attached continues until execution executed.

Merritt v. Am. Steele Barge Co., 24 C. C. a 530.
White v. Crow, 17 Fed. R. 98.
U. S. v. Collins, 4 Blatch. 142.
Exparte Schulenburg, 25 Fed. 211.
Watson v. Jones, 13 Wal. 679–719.
Watson v. Bondurant, 2 Woods 166.

(3) That the Federal Courts have no jurisdiction to review judgments and decrees of State Courts, where rendered within the scope of their jurisdiction.

Central Nat. Bank v. Stevens, 169 U. S. 432 and cases cited.

(4) That it is the duty of the Federal Court, at *whatever* stage of the proceedings want of jurisdiction may appear, to dismiss a cause, of its own motion, if needs be, as done in this case.

Act, March 3, 1875, Sec. 5.

(5) That the collusive appointment of a non-resident Receiver for a West Virginia corporation, for the purpose of giving jurisdiction to a Federal court over a citizen of that State cannot avail.

Williams v. Nottawa, 104 U. S. 209.
Farmington v. Pillsbury, 114 U. S. 138.

(6) That the Rule in *White v. Ewing 159 U. S. 36* does not apply in a case like that at bar, nor where the collusive purpose of the appointment and proceedings is patent, nor

where the State court first acquired and has jurisdiction over the subject matter.

Watson v. Jones, 13 Wal.
White v. Crow, 18 Fed. R. 98.

(7) That the allegation that the *Receiver* has acquired knowledge of facts not theretofore known to *him*, cannot entitle him to relitigate matters theretofore adjudged by a State court against his Corporation, nor authorize him to substitute an original bill in the Federal court for a bill of review in the State court, barred to his Corporation by its neglect.

Thus far has been discussed the status of the main case. The injunction was awarded, as well, to the execution of the seventeen judgments recovered by Laidley against lot owners, vendees of the Company. All these stand identically in the same situation, save that the defendants having filed their account for improvements, Laidley, under the statutes of West Virginia, consented, in lieu of possession, to take the value of the lots in their unimproved condition, which was adjudged a lien, and judgment entered for the sale of the lots to enforce the same. As stated, their status is identical, except as to form of executing the judgments, and all said in regard to the main suit, applied in like manner to these.

MOTION TO DISMISS.

We further submit:

That the Judge of the District Court cannot certify a question decided in his absence by the Circuit Judge or award an appeal to his decree, or continue in force the injunction dissolved by the Circuit Judge. And, upon this ground, we move, on behalf of the appellees, that the appeal be dismissed.

Also upon further ground:

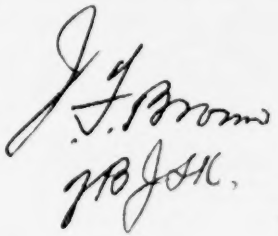
That the decree of dismission involved the consideration and determination of the legal effect and conclusiveness of the several judgments and decrees of the State courts, whereupon the case falls within the rule laid down in *Blythe* v. *Hinckley*, 173 U. S. 501. The appeal should have been to the Circuit Court of Appeals; not to this Court.

We append, for the convenience of the Court, a statement in chronological order of the several proceedings involved.

Respectfully,

BROWN, JACKSON & KNIGHT,
W. S. LAIDLEY.

Charleston, W. Va.,
January 10th, 1900.



APPENDIX.

DEEDS.

Pennybacker to Huntington,	Feb. 25, 1870	R 351.
Huntington " Land Co.	Oct. 16, 1871	R 353.
J. M. Pennybacker's death, (husband),	May 5, 1881	R 371.
Mrs. Pennybacker to Laidley,	Jan. 26, 1882	R 350.

LITIGATIONS IN STATE COURTS.

J. B. Laidley
v.
Central Land Co. of W. Va. } In Ejectment, Cabell Cir. Ct.

Declaration and Notice, to Apl. Rules 1882, R. 143.
Notice quashed, May 24, 1882, R. 146.
New Declaration and Notice to Oct. Rules 1882, R. 151.
Trial and Judgment for Deft., Dec. 22, 1884, R. 155-156.
W. of E. to State Sup. Ct. App., Oct. 23, 1886. R. 143.
Reversed and Remanded, Nov. 26, 1887, R. 338.
30 W. Va. 505.
Trial stayed on Deft's. agm't. to confess in event of loss of chancery suit, Jan. 16, 1888, R. 340.
Retried, and judg. for Plff. Laidley, Sept. 12, 1890, R. 347.
Sixty days stay of execution to enable Deft. to obtain W. of E. R. 347.
W. of E. refused by Sup. Ct. App., because "judgment was plainly right," R. 335.
W. of E. granted by U. S. Sup. Ct., July 7, 1890, R. 407.
W. of E. Dismissed by U. S. Sup. Ct. (opinion), Feb. 26, 1896, 159 U. S. 103. R. 414.
(For the other ejectments see Record 416 *et seq.*)

Central Land Co. of W. Va. vs. J. B. Laidley. — In Chancery. Cabell Circuit Court.

Bill filed, June Rules, 1887, R. 222.
Amended Bill, March 21, 1888, R, 233.
Final Decree against Land Co., May 14, 1888, R. 335.
Appeal and sup. allowed, Aug. 20, 1888, R. 221.

Affirmed by Sup. Ct. of App., Feb. 11, 1899.
32 W. Va. 134.

S. H. G. Pennybacker, v. J. B. Laidley. — In chancery In Cabell Cir. Ct.

Decided in favor of Laidley, by Sup. Ct. of App., Mar. 25, 1890. 33 W. Va. 624.

LITIGATION IN THE FEDERAL COURTS.

Gates, Huntington, et als., v. Central Land Co. — In Equity.

Bill filed, and Rec'r appointed, Nov. 11, 1890, R. 636, 638.
Huntington substituted as Rec'r, Dec. 16, 1890, R. 640.

Central Land Co. of W. Va., v. J. B. Laidley.

Bill filed, and injunction granted, Nov. 11, 1890, R. 582, 622.
Injunction dissolved, and bill dismissed, June 25, 1898, R. 635.

C. P. Huntington, Receiver, v. J. B. Laidley, et al. — In Equity.

Bill filed, and inj. granted, Feb. 28, 1891. R. 1.
Demurrer overruled, Jan. 12, 1892. R. 34.

An. nded bill, Jan. 26, 1894, R. 43.
Plea and answer filed, Feb. 26, 1896, R. 132.
2nd amendment to the bill, Dec. 21, 1896, R. 514.
Laidley's amended plea filed, July 13, 1897, R. 521.

Rule for contempt against Laidley et als., Dec. 17, 1897, R. 650.
Answer of Laidley to the Rule, Dec. 20, 1897, R. 574.

Decree by Circuit Judge discharging the Rule for contempt, and dismissing the bill, June 25, 1898, R. 582, 647.
Appeal and supersedeas by the District Judge, to Sup. Ct. of the U. S., June 25, 1898, R. 652.
which is the appeal now for decision.

J. J. Brown
W. B. Jack

No. 105, October Term, 18

IN THE

SUPREME COURT

—OF THE—

UNITED STATES.

C. P. HUNTINGTON, as Special Receiver of the Central Land Company of West Virginia,

vs.

JOHN B. LAIDLEY, et al.

IN THE

SUPREME COURT

—OF THE—

UNITED STATES.

C. P. HUNTINGTON, as Special Receiver of the Central Land Company of West Virginia,

vs.

JOHN B. LAIDLEY, et al.

TO THE HONORABLE, THE CHIEF JUSTICE AND ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES:

The petition of defendants in the above styled cause respectfully represents:

That in the hearing of this case before the Circuit Court of the United States the only question presented for argument and decision was the question of the right

and authority of the Federal Court to enjoin the proceedings then pending in the State Court. This question was raised on the answers of the defendants in the contempt proceedings instituted against them for an alleged violation of the injunction prohibiting them from making sales under an order of the State court. This point was decided in favor of the respondents in the contempt proceeding, and this position was sustained by this Honorable Court in its opinion rendered at the present term.

At the time the Circuit Court rendered its decision discharging the respondents in the contempt proceeding, that Court of its own motion directed the case to be dismissed from the Federal Court, on the ground that that court had no jurisdiction in that proceeding. These defendants insisted upon the Circuit Court allowing the case to be heard upon its merits, and requested the Court to enter no order dismissing the case, but that order was entered over the protest of the defendants, upon the Court's own motion.

Your petitioners further represent that they are advised by the Clerk of this Court that the cost of this appeal will be taxed against them, unless otherwise directed by this Honorable Court.

Your petitioners further represent that the case was dismissed without their having made any motion for that purpose, and without their insisting on it, and over their protest; and that they ought not to be subjected to the payment of the cost of this proceeding, as they were not responsible in any way for the Court's action dismissing the case from the docket.

Your petitioners further say that the one point insisted on by them in the Circuit Court, was their exemption from punishment on the charge of violating the injunc-

tion. This position was sustained by the Circuit Court, and affirmed by this Honorable Court.

Your petitioners, being remediless save in this Honorable Court, would therefore pray that the cost of this appeal be not taxed against them, and that the Clerk of this Court be directed to incorporate in the mandate of this Court that the cost of the appeal abide the general result of the suit, and for such other relief as they may be entitled to, and they will ever pray.

To Messrs. F. B. Enslow and Maxwell Evarts, Counsel for the Plaintiff.

Gentlemen:

You will please take notice that the foregoing petition will be filed in the Supreme Court of the United States, on the 16th day of April, 1900, and the Court will be asked to take action thereon in accordance with the prayer of said petition.

Very Respectfully,